

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 CR 511	DATE	12/2/2002
CASE TITLE	USA vs. Narada Abrahams and Robert Bell		

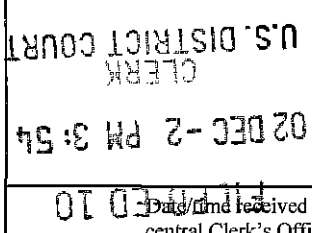

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

(1)	<input type="checkbox"/>	Filed motion of [use listing in "Motion" box above.]
(2)	<input type="checkbox"/>	Brief in support of motion due _____.
(3)	<input type="checkbox"/>	Answer brief to motion due _____. Reply to answer brief due _____.
(4)	<input type="checkbox"/>	Ruling/Hearing on _____ set for _____ at _____.
(5)	<input type="checkbox"/>	Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(6)	<input type="checkbox"/>	Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(7)	<input type="checkbox"/>	Trial[set for/re-set for] on _____ at _____.
(8)	<input type="checkbox"/>	[Bench/Jury trial] [Hearing] held/continued to _____ at _____.
(9)	<input type="checkbox"/>	This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] <input type="checkbox"/> FRCP4(m) <input type="checkbox"/> Local Rule 41.1 <input type="checkbox"/> FRCP41(a)(1) <input type="checkbox"/> FRCP41(a)(2).
(10)	<input checked="" type="checkbox"/>	[Other docket entry] Enter Memorandum Opinion and Order. Accordingly the objections to the government's motion that have been interposed by the memoranda submitted by counsel for Abrahams and Bell are rejected. On the premise that the government will be able to deliver as advertised as to the evidence at issue, its motion for admissibility of the evidence is granted. (63-1)
(11)	<input checked="" type="checkbox"/>	[For further detail see order attached to the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.		number of notices	
<input type="checkbox"/>	No notices required.		date docketed	
<input checked="" type="checkbox"/>	Notices mailed by judge's staff.		docketing deputy initials	
<input type="checkbox"/>	Notified counsel by telephone.		12/2/2002	
<input type="checkbox"/>	Docketing to mail notices.		date mailed notice	
<input type="checkbox"/>	Mail AO 450 form.		SN	
<input type="checkbox"/>	Copy to judge/magistrate judge.		mailing deputy initials	
SN courtroom deputy's initials		Date/time received in central Clerk's Office		

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MEMORANDUM OPINION AND ORDER

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This is not at all an instance of the impermissible use of such other acts for the purpose prohibited by Rule 404(b): to serve as adverse character evidence--as demonstrating defendants' propensity to commit the actually charged crime. Instead the

incident serves as part and parcel of a demonstration of the motive and intent of defendants in committing the charged crime itself. According to the government:

1. On May 21 Abrahams and Bell, together with codefendant Marcel Grant (who has pleaded guilty and is a likely witness at trial), met to discuss their need for money and different ways in which they could obtain money illegally.

2. That discussion led to their agreement to rob the Walgreens drug store.

3. That effort proved unsuccessful because Grant (who was chosen to go into the store because he had previously worked at that Walgreens location) fled when an employee began to scream.

4. Finally, the defendants met next day, again discussed their need for money and other possible robberies, and ultimately settled on the bank robbery that is the subject of the superseding indictment.

All of that being so, the disputed evidence more than readily meets the four conditions for admissibility as regularly reconfirmed by our Court of Appeals (see, e.g., United States v. Poole, 207 F.3d 893, 897 (7th Cir. 2000)).

1. It relates to a matter other than defendants' propensity to commit the charged offense.

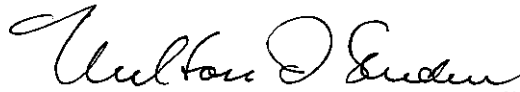
2. It is similar enough and close enough in time to a matter in issue.

3. There is more than enough evidence that the other act was committed.

4. It cannot be said that the probative value of the challenged evidence is substantially outweighed by the danger of unfair prejudice (this factor satisfies the balancing test prescribed by Rule 403).

Conclusion

Accordingly the objections to the government's motion that have been interposed by the memoranda submitted by counsel for Abrahams and Bell are rejected. On the premise that the government will be able to deliver as advertised as to the evidence at issue, its motion for admissibility of that evidence is granted.



Milton I. Shadur
Senior United States District Judge

Date: December 2, 2002